

**Notice of Allowability**

Application No.	Applicant(s)	
09/777,320	PENNER ET AL.	
Examiner	Art Unit	
Alton N. Pryor	1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 5/14/04.
2.  The allowed claim(s) is/are 1,4,13,14,18,20-22,24,28,40-44,109,56 (claims renumbered 1-17 respecively).
3.  The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached  
1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of  
Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney I. McLeod on 7/19/04.

The application has been amended as follows:

- a) In claim 1 line 2 delete "comprising" and insert --- consisting essentially of ---.
- b) In claim 1 line 3 delete "at least one" and insert --- a ---.
- c) In claim 1 lines 8-9 delete "and combinations thereof".
- d) In claim 1 line 8 after "oxodiazon," insert --- and ---.
- e) In claim 4 last line delete ", and combinations thereof".
- f) In claim 4 line 19 after "diazacyclononane" insert --- and ---.
- g) In claim 24 line 4 delete "comprising at least one" and insert --- consisting essentially of a ---.
- h) In claim 24 lines 9-10 delete "and combinations thereof".
- i) In claim 24 line 9 after "dithiopyr" insert --- , cyclohexanidione, aryloxyphenoxy, imidazolinone, and sulfonylurea ---.
- j) In claim 24 line 18 delete "and".
- k) In claim 24 last line after "plants," insert --- ; (c ) optionally an oil-based adjuvant selected from the group consisting of a crop oil concentrate, a free fatty acid,

an esterified and saponified oil and combinations thereof; and (d) optionally a monosaccharide to potentiate the effect of the herbicide in killing the weeds without decreasing tolerance of the crop plant to the herbicide ---.

- l) In claim 42 line 2 delete "composition further comprises an".
- m) In claim 42 line 5 after "thereof" insert --- is present ---.
- n) In claim 42 line 2 delete "composition further comprises a".
- o) In claim 42 line 5 after "thereof" insert --- is present ---.
- p) In claim 56 last line delete ", and combinations thereof".
- q) In claim 56 line 19 after "diazacyclononane" insert --- and ---.
- r) In claim 109 line 5 delete "comprising at least one" and insert --- consisting essentially of a ---.
- s) In claim 109 line 11 after "adjuvant" insert --- which is a water soluble organic silane ---.
- t) In claim 109 lines 10-11 delete "and combinations thereof".
- u) In claim 109 line 10 after "oxodiazon," insert --- and ---.
- v) In claim 1 lines 12-13 delete "selected from the group consisting of" and insert --- which is a water soluble organic silane ---.
- w) In claim 1 lines 12-13 delete "selected from the group consisting of" and insert --- which is a water soluble organic ---.
- x) Cancel claims 5,6,15-17,29-31,36-39,57-65,71-108.

The following is an examiner's statement of reasons for allowance: The prior art does not teach a composition consisting essentially of an instant herbicide, an instant

water soluble organic silane and a safener is not taught or suggested by the prior art.

Therefore a method of using instant composition is novel.

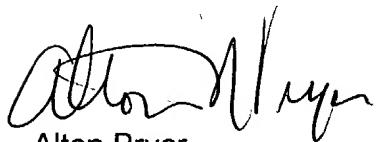
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Telephonic Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton N. Pryor whose telephone number is 571-272-0621. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz can be reached on 571-272-0887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alton Pryor  
Primary Examiner,  
AU 1616